

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RUFUS HORTON,

Petitioner,

v.

**Civil Action 2:17-cv-36
Judge James L. Graham
Magistrate Judge Jolson**

**WARDEN, MADISON CORRECTIONAL
INSTITUTION,**

Respondent.

REPORT AND RECOMMENDATION

On January 12, 2017, Rufus Horton, a prisoner at the Madison Correctional Institution, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and requested leave to proceed *in forma pauperis*. (Doc. 1). On January 23, 2017, this Court issued an Order indicating that it appeared from Petitioner's statement of his current and average institutional account balance and/or his monthly deposits that he can afford to pay the \$5.00 filing fee. (Doc. 2). Consequently, the Court denied his application for leave to proceed *in forma pauperis* and ordered Petitioner to pay the filing fee within 30 days. (*Id.*). Further, this Court warned Petitioner that if he failed to do so, this Court may recommend dismissal of his petition. (*Id.*).

More than 30 days have passed, and Petitioner has not paid the filing fee. Accordingly, it is **RECOMMENDED** that this case be **DISMISSED without prejudice** for want of prosecution. *See Gravitt v. Tyszkiewicz*, 14 F. App'x 348, 348 (6th Cir. 2001).

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those

specific proposed finding or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specific proposed findings or recommendations to which objection is made. Upon proper objection, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: March 6, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE